

**AMENDMENTS TO THE FEDERAL  
RULES OF CRIMINAL PROCEDURE**

**Rule 12.3. Notice of a Public-Authority Defense**

**(a) Notice of the Defense and Disclosure of  
Witnesses.**

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**(4) *Disclosing Witnesses.***

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(C) *Government's Reply.* Within 14 days after receiving the defendant's statement, an attorney for the government must serve on the defendant or the defendant's attorney a written statement of the name of each witness — and the address and telephone number of each witness other than a victim — that the government intends to rely on to

oppose the defendant's public-authority defense.

(D) *Victim's Address and Telephone Number.* If the government intends to rely on a victim's testimony to oppose the defendant's public-authority defense and the defendant establishes a need for the victim's address and telephone number, the court may:

- (i) order the government to provide the information in writing to the defendant or the defendant's attorney; or
- (ii) fashion a reasonable procedure that allows for preparing the defense and also protects the victim's interests.

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**(b) Continuing Duty to Disclose.**

(1) ***In General.*** Both an attorney for the government and the defendant must promptly disclose in writing to the other party the name of any additional witness — and the address, and telephone number of any additional witness other than a victim — if:

- (A) the disclosing party learns of the witness before or during trial; and
- (B) the witness should have been disclosed under Rule 12.3(a)(4) if the disclosing party had known of the witness earlier.

(2) ***Address and Telephone Number of an Additional Victim-Witness.*** The address and telephone number of an additional victim-witness must not be disclosed except as provided in Rule 12.3(a)(4)(D).

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**Rule 15. Depositions**

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**(c) Defendant's Presence.**

**(1) *Defendant in Custody.*** Except as authorized

by Rule 15(c)(3), the officer who has custody of the defendant must produce the defendant at the deposition and keep the defendant in the witness's presence during the examination, unless the defendant:

(A) waives in writing the right to be present; or

(B) persists in disruptive conduct justifying exclusion after being warned by the court that disruptive conduct will result in the defendant's exclusion.

**(2) *Defendant Not in Custody.*** Except as authorized by Rule 15(c)(3), a defendant who is not in custody has the right upon request to be

present at the deposition, subject to any conditions imposed by the court. If the government tenders the defendant's expenses as provided in Rule 15(d) but the defendant still fails to appear, the defendant — absent good cause — waives both the right to appear and any objection to the taking and use of the deposition based on that right.

**(3) *Taking Depositions Outside the United States Without the Defendant's Presence.***

The deposition of a witness who is outside the United States may be taken without the defendant's presence if the court makes case-specific findings of all the following:

- (A) the witness's testimony could provide substantial proof of a material fact in a felony prosecution;

6      FEDERAL RULES OF CRIMINAL PROCEDURE

- (B) there is a substantial likelihood that the witness's attendance at trial cannot be obtained;
- (C) the witness's presence for a deposition in the United States cannot be obtained;
- (D) the defendant cannot be present because:
  - (i) the country where the witness is located will not permit the defendant to attend the deposition;
  - (ii) for an in-custody defendant, secure transportation and continuing custody cannot be assured at the witness's location; or
  - (iii) for an out-of-custody defendant, no reasonable conditions will assure an appearance at the deposition or at trial or sentencing; and

- (E) the defendant can meaningfully participate  
in the deposition through reasonable means.

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**Rule 21. Transfer for Trial**

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- (b) For Convenience.** Upon the defendant's motion,  
the court may transfer the proceeding, or one or more  
counts, against that defendant to another district for  
the convenience of the parties, any victim, and the  
witnesses, and in the interest of justice.

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**Rule 32.1. Revoking or Modifying Probation or  
Supervised Release**

- (a) Initial Appearance.**

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- (6) *Release or Detention.*** The magistrate judge  
may release or detain the person under 18

U.S.C. § 3143(a)(1) pending further proceedings.

The burden of establishing by clear and convincing evidence that the person will not flee or pose a danger to any other person or to the community rests with the person.

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